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March 14, 2023

**VIA E-MAIL**

Sonya Calloway-Durham  
Special Deputy Attorney General  
N.C. Department of Justice  
Public Safety Section  
[scalloway@ncdoj.gov](mailto:scalloway@ncdoj.gov)

RE: *Abrams v. Fowler* (EDNC Case No. 5:20-CT-03231-M)

Dear Ms. Calloway-Durham,

I am writing in response to your letters dated February 23, 2023 and March 9, 2023. I appreciate your cooperation in agreeing to produce supplemental discovery responses. The purpose of this letter is to clarify the issues that remain in dispute and to set a timeline for defendant to provide the agreed upon supplemental responses.

**Interrogatory No. 3 and Request for Production No. 23**

These discovery requests sought information regarding the formal education and training of all individuals that have been identified as having had a role in reviewing juvenile parole cases. Defendant has agreed to provide the training records and resumes for the parole analyst Joy Smith and all members of the Parole Commission who have reviewed Plaintiff's parole candidacy since *Hayden*. Given that the discovery deadline in this matter is April 3, please provide these supplemental responses by **Friday, March 24**. Once this production is made, I will consider these issues to be resolved.

**Interrogatories Nos. 6(a) and 7(a)**

These interrogatories requested data on juvenile and adult parole cases reviewed by the Parole Commission. Thank you for providing an explanation on the data provided. However, these explanations still do not make clear how the data provided is responsive to these interrogatories.

Interrogatory No. 6(a) requested data relating to "JUVENILE PAROLE CASES," which is defined as "cases reviewed by the COMMISSION involving a crime the inmate committed as a juvenile .... for both release on parole and for a MAPP agreement." Similarly, Interrogatory No. 7(a) requested data relating to "ADULT PAROLE CASES," which is defined as "parole cases reviewed by the Commission involving a crime the inmate committed as an adult .... for both release on parole and for a MAPP agreement."

Your March 9 letter stated that data corresponding with “PAROLE REVIEW COMPLETE/ANALYST” refers to “notes made by the analyst about the offender’s parole status and which are available for review by the Commission.” Likewise, your letter stated that data corresponding with “STATUS REVIEW” refers to “notes made by the analyst that are used to tickle the calendar for parole events regarding an offender.” Neither of these explanations provides the total number of cases per year that the Parole Commission considered for release on parole or for a MAPP agreement. Furthermore, your letter does not explain why there are two categories labeled “PAROLE REVIEW COMPLETE/ANALYST” with different numbers in response to Interrogatory 6.a. for the year 2020.

If it is helpful in obtaining a responsive answer, you can interpret Interrogatories Nos. 6(a) and 7(a) to ask for the number of cases per year that the Commissioners voted on and that vote resulted in a final decision granting or denying parole or a MAPP agreement. If the numbers corresponding with “PAROLE REVIEW COMPLETE/ANALYST” and/or “STATUS REVIEW” is responsive to this question, you can just tell me that. If I am misunderstanding how the Parole Commission’s review process works, I am happy to discuss this further so both of us can gain some clarity.

Additionally, you stated that defendant would provide responsive data from parole hearings conducted in 2021 and 2022, provided that “the data is available and not unduly burdensome to collect.” I understand this response to mean that defendant has not in fact agreed to provide this data. If the defendant’s position is that this data is either unavailable or too burdensome to collect, please let me know by **Friday, March 24**, and I will move to compel its disclosure.

#### **Interrogatory No. 18 and Request for Production No. 16**

These requests asked for the names and OPUS numbers of certain individuals who the Parole Commission collects data on in compliance with *Hayden* and who were granted parole or a MAPP agreement during certain years. Your February 23 letter suggested that defendant maintains his objection that this information is considered “confidential” under state law and will not be produced. Your March 9 letter did not address this issue. Additionally, your letters did not address why defendant only provided data on *Hayden* hearings that were held during the years 2022-2023 and not prior years. Unless Defendant’s position has changed, I will be filing a motion to compel responses to these requests.

#### **Request for Production No. 5**

This request sought, among other things, all recordings and transcripts of any video-conferences conducted with Plaintiff. You agreed to provide audio recordings from Plaintiff’s 2018 and 2020 interviews. Please provide these supplemental responses by **Friday, March 24**, and I will consider this issue to be resolved.

#### **Redacted or Withheld Documents and the Privilege Log**

In your March 9 letter, you agreed to produce Plaintiff’s entire, unredacted parole file provided that I agree to language preventing me from sharing the previously redacted pages with my client. With the understanding that defendant will produce the documents in the files titled “AEO

Parole Documents (Abrams)" and "CONFIDENTIAL Parole File Documents (Abrams)" in their full, unredacted form, I agree to the proposed language.

Your letters did not address the redactions applied to the Standard Operations Manual (documents bates numbered 2660-2697 and 2698-2723). Please confirm whether those documents will also be produced in their full, unredacted form.

Please provide these supplemental document productions by **Friday, March 24**, and I will consider this issue to be resolved.

Thank you for your cooperation.

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Sincerely,

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